

	<p><b>DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING</b></p> <p><b><i>ENFORCEMENT DIVISION</i></b></p> <p><b><i>DIRECTIVE</i></b></p>	<p><b>DIRECTIVE NUMBER</b></p> <p style="text-align: center;"><b>202</b></p> <p><b>DISTRIBUTION DATE</b></p> <p style="text-align: center;">October 1, 1998</p>
---	--	--

1. **SUBJECT: PRIORITY PROCESSING**
  
2. **PURPOSE:** To set forth the procedures for the priority processing of certain Employment, Unruh Civil Rights Act, and Ralph Civil Rights Act complaints.
  
3. **BACKGROUND:** Generally it takes at least two years for a discrimination complaint filed with the Department of Fair Employment and Housing (DFEH) to be processed from the point of an investigation to an accusation, a public hearing, and a decision by the Fair Employment and Housing Commission (FEHC). The timeframe is longer for cases that go through the civil litigation process. DFEH policy requires that complaints be processed in the order in which they are received/filed or on a first in, first out basis with the exception of those identified as having priority status.
  
4. **PROCEDURES:**

Cases which have been designated as "**priority**" will be completed, including investigative reports or Progress Memos, within 120 days of filing. Formal discovery will be commenced as soon as it appears appropriate. Cases will be designated as priority as follows:

**A. Cases Always Assigned Priority Status:**

The following cases will **always** be assigned priority status:

- 1) All Ralph Civil Rights Act cases;
  
- 2) Any employment case that is a **companion** to a Ralph Civil Rights Act case; and
  
- 3) Cases where the complainant has AIDS, or is HIV Positive.

**B. Cases Which May Be Assigned Priority Status:**

Under certain circumstances, the following cases **may** be assigned priority status:

- 1) Complaints in which the complainant has a terminal illness and BOTH of the following conditions exist:

- a) The complainant alleges, verbally, in writing, or in the complaint that he/she has a terminal illness; and
- b) The complainant alleges that there is a possibility that he/she might not survive until the completion of the administrative or civil process.

**NOTE:** Complaints assigned priority status because complainant has a terminal illness will be immediately reviewed to determine whether a temporary restraining order (TRO) is appropriate. (Refer to Directive 235, "Emergency Relief For Complainants in Employment Cases," for guidance.)

- 2) Employment cases in which the complainant alleges retaliation when BOTH of the following conditions exist:

- a) The complainant alleges that the retaliation occurred because he/she previously filed a complaint with DFEH or participated in a DFEH investigation, hearing, or court case; and
- b) The alleged retaliation occurred within 180 days of the filing of the previous formal complaint or within 180 days of complainant's participation in an investigation, hearing, or court process.

- 3) When a priority retaliation complaint is filed which evolves from a prior DFEH complaint and the initial complaint is still open, the original complaint will also be designated as priority. (Both cases will be assigned to the same Consultant.)

**C. Cases Which Will Not Be Assigned Priority Status:**

Where the complainant alleges retaliation for filing a charge with the U.S. Equal Employment Opportunity Commission (EEOC), priority status **will not** be assigned and the complaint will be handled as follows:

- 1) The complaint will be waived to EEOC for processing and immediately closed with Closing Category 11, "Processing Waived to Another Agency;" or
- 2) Where EEOC does not have jurisdiction because the 300-day statute of limitations for filing has passed, the complaint will be processed by DFEH on a non-priority basis.

**D. Exceptions:**

- 1) The District Administrator has the discretion to designate any case as a priority.
- 2) Cases so designated by the District Administrator must be justified. Some examples of justification are:
  - a) The complaint will be processed as a class action complaint;
  - b) The complaint concerns a personnel practice that discriminates against a large number of individuals;
  - c) The complaint is one of multiple complaints against one respondent; or
  - d) The complaint is a Director's Complaint.

**E. Responsibility for Identifying Priority Complaints:**

- 1) The assigned Consultant is responsible for identifying the need for priority processing.
- 2) When a complaint is identified as priority at intake, the intake Consultant should ensure that the complaint is drafted and signed within 24 hours if the interview was conducted in the office, and within 10 days if the interview was done by telephone and the complaint was mailed for signature.
- 3) The assigned Consultant is responsible for advising the support staff to:
  - Enter the case in the Case Management Information System (CMIS) as a priority;

- Add a "v" suffix to the case file label;
- Write "PRIORITY" (in red) on the case file next to the label.

**F. Priority Case Suffix:**

- 1) Priority cases will be identified by adding the suffix "v" as the last indicator after any other suffixes appropriate to the case. Refer to the Enforcement Division's Clerical Case Processing Manual for details on case numbering.
- 2) The assigned Consultant will enter a red "v" on his/her Case Log for any case designated as a priority.

**G. Removal of Priority Status:**

When there is no longer a reason for a case to be identified as a priority (e.g., the prognosis of an illness is no longer fatal), the assigned Consultant, with the concurrence of the District Administrator, will:

- 1) Indicate the status change on the Case Diary;
- 2) Complete an EDP Update/Closure Report (DFEH-800-02) to remove the "v" suffix in the computer;
- 3) Line out the "PRIORITY" entry on the case folder;
- 4) Block out the "v" on both the Case Diary and the case file label (complaints will not be amended to remove the "v" suffix, therefore it will remain on the complaint); and
- 5) Process the case in accordance with its filing date sequence.

**5. APPROVAL:**

\_\_\_\_\_  
Nancy C. Gutierrez, Director

\_\_\_\_\_  
Date